

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 8-14 are pending in this application.

The outstanding Office Action includes a rejection of Claims 8-10 under 35 U.S.C. §103(a) as being unpatentable over Itaya et al. (U.S. Pat. Pub. No. 2001/0021323 A1, Itaya) in view of Nishikawa (U.S. Pat. Pub. No. 2001/0026713 A1) and a rejection of Claim 12 under 35 U.S.C. §103(a) as being unpatentable over Itaya in view of Thompson (U.S. Patent No. 5,300,990).

Initially, Applicants acknowledge with gratitude the indication in the outstanding Action that Claims 11, 13, and 14 are only objected to as depending on a rejected base claim and would be allowable if rewritten in independent form to include all of the limitations of their respective base claims and any intervening claims.

However, as Itaya is an intervening reference that has a publication date of September 13, 2001 and the present application has a foreign priority date of March 16, 2001 based upon Japanese Application No. 2001-076030, which foreign priority date is herein perfected by the enclosed English translation of the priority papers and required statement by the translator under 37 CFR §1.55, there can be no reliance on Itaya as being a valid 35 U.S.C. §102(a)/103(a) reference.

To the extent that the USPTO would seek to rely upon Itaya as a reference relative to the above-noted rejections based upon 35 U.S.C. §102(e)/103(a), this reliance is not proper in view of 35 U.S.C. §103(c) and the common ownership of Itaya and the present application set forth on the attached sheet signed by an attorney of record in accordance with MPEP §706.02 (I)(2)(II).

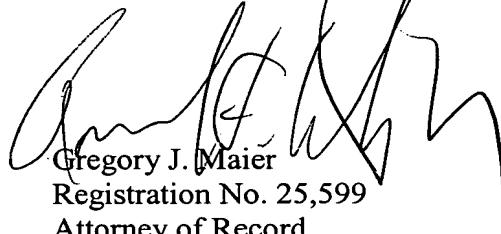
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Accordingly, as Itaya does not qualify as being prior art under 35 U.S.C. §102(a)/103(a) or 35 U.S.C. §102(e)/103(a), withdrawal of the rejections of Claims 8-10 and 12 under 35 U.S.C. §103(a) is believed to be clearly in order.

As no other issues are believed to remain outstanding relative to this application, it is believed to be clear that this application is in condition for formal allowance and an early and favorable action to this effect is, therefore, respectfully requested.

Respectfully submitted,

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